

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 92-243-W/S - ORDER NO. 92-786 ✓

SEPTEMBER 10, 1992

IN RE: Application of Keowee Key Utilities,) ORDER
Inc. for Approval of the Transfer of the) DENYING
Water and Sewer Facilities, Territory,) PETITION FOR
and Certificates of Keowee Key Subdi-) RECONSIDERATION
vision from Realtec, Inc.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Petition for Reconsideration filed on behalf of Keowee Key Utilities, Inc. (KKUI) and Realtec, Inc. (Realtec) pursuant to R.103-881 of the Rules of Practice and Procedure of the Commission and S.C. Code Ann., §58-5-330 (1976).

KKUI and Realtec petitioned for reconsideration of that portion of Order No. 92-698, issued in the instant docket relating to the Commission's denial of the requested transfer of the Realtec utility system to KKUI. In summary, the Commission denied the request for the transfer because the two parties, Realtec and KKUI, did not adhere to the Commission's regulations requiring Commission approval before the transfer was to take place. It appeared to the Commission, based on the record, that the sale was consummated and the closing held before Commission approval of the transfer was applied for. In their Petition for Reconsideration, Realtec and KKUI state that it was not the parties' intention to

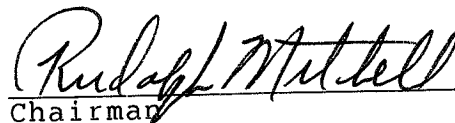
avoid the Commission's jurisdiction or its rules and regulations concerning the transfer of water and sewer utilities. In support of their Petition, the parties' have submitted a new transfer agreement and have alleged that the deed conveying the property and the bill of sale have been placed in escrow pending the Commission's final action on the transfer application. Additionally, the parties have modified the Asset Purchase Agreement to strike all language referring to the "contingent payment" provision, which the Commission found to be offensive. Further, the Petitioners allege that KKUI is fit, willing, and able to provide quality water and sewer service to the Keowee Key Subdivision, and that the customers would benefit from the transfer. The parties also point out that Keowee POA and Intervenor Kennard are in support of the requested transfer. In fact, the Commission's files contain a letter from the POA supporting the transfer. Additionally, the Consumer Advocate does not oppose the transfer.

The Commission has considered the Petition and the allegations contained therein and finds that the Petition for Reconsideration should be denied. The Commission appreciates the Petitioners' concern over their violation of the Commission's rules and regulations. However, the attempt after the fact to rectify the violation is not sufficient. The Commission cannot tolerate the practice engaged in by the Petitioners. While it may not have been the Petitioners' intention to avoid the Commission's jurisdiction or to violate its rules and regulations, such did happen and such should not be "standard industry practice."

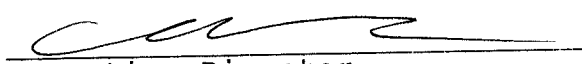
The Commission made no finding in Order No. 92-698 as to the fitness, willingness, and ability of KKUI to provide quality water and sewer service to the customers in Keowee Key. Because of the violation of the Commission's regulations, that issue was never reached. As of today, that is still not the issue before the Commission. The issue is that the Commission's regulations were violated, and the transfer will not be approved because of the violation. The Commission is keenly aware that the Keowee POA and Intervenor Kennard supported the requested transfer and that the Consumer Advocate does not oppose the transfer. However, the Commission's interest in ensuring that its rules and regulations and other requirements are adhered to is of paramount importance. Therefore, the Commission will stand by its earlier decision issued in Order No. 92-696, which denied the request for the transfer of the Realtec utility system to Keowee Key Utilities, Inc. The Petition for Reconsideration filed on behalf of the Petitioners is hereby denied.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)